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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/567,200	02/03/2006	Johannes J. Van Vaals	PHNLO31008US	9601
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PHILIPS INTELLECTUAL PROPERTY & STANDARDS				
P. O. Box 3001				
BRIARCLIFF MANOR, NY 10510				
EXAMINER				
REARDON, ROCHELLE D				
ART UNIT		PAPER NUMBER		
3777				
NOTIFICATION DATE		DELIVERY MODE		
05/11/2011		ELECTRONIC		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

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Office Action Summary

Application No.

10/567,200

Applicant(s)

VAN VAALS, JOHANNES J.

Examiner

ROCHELLE REARDON

Art Unit

3777

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 28 February 2011.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 2-9, 11, 12, 19, 21 and 22 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 2-9 is/are allowed.
- 6) ☒ Claim(s) 11, 12, 19, 21 and 22 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftperson's Patent Drawing Review (PTO-945)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

Drawings

1. The drawings were received on February 28th, 2011. These drawings are acceptable.

Claim Objections

2. Claims 11, 12 and 19 are objected to because of the following informalities: line 9 in claim 11, "form" should be "from," and line 10 of claim 11 "the anatomical target" should be "of the anatomical target." Regarding line 21 of claim 11, the wording of "merge overlapping the corresponding parts" is unclear. Appropriate correction is required.

Claim Rejections - 35 USC § 112

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

4. Claims 11, 12, 19 and 22 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Regarding claim 11, the preamble is directed to a magnetic resonance imaging system; however, the body of the claim only discloses a workstation. There is insufficient antecedent basis for this limitation in the claim. Claim 11 recites the limitation "the magnetic resonance scanner" in line 13. There is insufficient antecedent basis for this limitation in the claim.

5. Claim 22 is directed to one or more programmed computers; however, the disclosure does not provide a specific algorithm which performs the steps. Examiner suggests amending the claim to be directed to a computer readable medium.

Claim Rejections - 35 USC § 103

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. Claims 11, 12, 19 and 22 are rejected under 35 U.S.C. 103(a) as being unpatentable over Blumhofer et al in view of Shepherd et al (5,894,503).

Blumhofer et al disclose a workstation programmed to control an imager to acquire a first image of an anatomical target and at least one fiducial placed on the patient displaced from the anatomical target in which the first image of the anatomical target is imaged at a more geometrically accurate position and the at least one fiducial is in a less geometrically accurate position, and control the scanner to acquire a second image at a shifted position relative to the first image, in which the second image the fiducial marker is imaged at the more geometrically accurate position, and merge overlapping the corresponding parts of the first and second images into a single image; and a patient table which permits repositioning of the patient in the left-right direction; and wherein the accurate geometrical position is closely adjacent an isocenter (figs. 5 and 6;[0014];[0021];[0024]-[0026];[0063]). Blumhofer et al fail to disclose controlling a magnetic resonance scanner and a magnetic isocenter.

However, Shepherd et al teach in the same medical field of endeavor a magnetic resonance scanner controlled by a workstation and imaging with regards to a magnetic isocenter (col.7, ll.1-65).

It would have been obvious to one of ordinary skill in the art at the time of the invention to modify the medical imaging device and isocenter of Blumhofer et al with the magnetic resonance scanner and imaging with regards to a magnetic isocenter of Shepherd et al as it is well known in the art to image a patient at various positions to provide a more accurate location of a target using a variety of medical imaging devices.

Allowable Subject Matter

8. Claims 2-9 and 21 are allowed.

Response to Arguments

9. Applicant's arguments with respect to claims 11, 12, 19 and 22 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to ROCHELLE REARDON whose telephone number is (571)270-7104. The examiner can normally be reached on Monday thru Friday, 9:00 A.M. to 5:00 P.M..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Robert Chen can be reached on (571)272-3672. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/ROCHELLE REARDON/
Examiner, Art Unit 3777

/Tse Chen/
Supervisory Patent Examiner, Art Unit 3777